

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)	
)	Docket No. 02-20040
Plaintiff,)	
)	
vs.)	Urbana, Illinois
)	June 6, 2003
EDWARD M. DOUGLAS,)	1:20 p.m.
)	
Defendant.)	

SENTENCING HEARING

BEFORE THE HONORABLE MICHAEL P. McCUSKEY
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S :

For the Plaintiff: **RICHARD N. COX, ESQUIRE**
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For the Defendant: **ROBERT ANDRE ALVARADO, ESQUIRE**
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produced by computer.

LISA KNIGHT COSIMINI, RMR-CRR
Official Court Reporter -- U.S. District Court
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1 THE COURT: This is the United States of America,
2 plaintiff, versus Edward Douglas, defendant, Case Number
3 02-20040.

4 Mr. Douglas is present in open court, accompanied
5 by his attorney, Mr. Robert Alvarado.

6 The government is represented by its assistant
7 United States attorney, Mr. Richard N. Cox.

8 Present also in open court is United States
9 probation officer for the Central District of Illinois in the
10 Urbana Division, Gwen M. White.

11 In this case, the defendant was charged in a
12 complaint on May 29, 2001, where he was named as defendant and
13 charged with on or about May 18, 2001, in Kankakee County,
14 Illinois, in the Central District of Illinois, with knowingly
15 distributing more than 50 grams of cocaine base, crack.

16 On May 3, 2002, a two-count indictment was filed in
17 the Central District of Illinois, Count 1 charging the
18 defendant with on or about April 30, 2001, in Kankakee, in the
19 Central District of Illinois, with knowingly distributing more
20 than five grams of cocaine base, crack, and in Count 2 of the
21 indictment charging the defendant, Mr. Douglas, with on or
22 about May 18, 2001, in Kankakee, in the -- Kankakee County, in
23 the Central District of Illinois, with knowingly distributing
24 more than 50 grams of cocaine base, crack.

25 On September 4, 2002, the government filed pursuant

1 to 21 United States Code, Section 851, an information giving
2 notice regarding the defendant's prior felony drug convictions
3 in Case Number 88-CF-211770011, Cook County, Illinois,
4 conviction, and Case 92-CF-905, Kankakee County, Illinois,
5 conviction.

6 And as a result of the notice of the prior felony
7 drug convictions, the defendant was advised that he was
8 subject to the mandatory minimum ten-year term of imprisonment
9 on Count 1 and a mandatory minimum term of life imprisonment
10 on Count 2.

11 The defendant pled guilty -- not guilty to both
12 counts but ultimately was found guilty by a jury on February
13 27, 2003.

14 The Court entered a judgment of conviction on both
15 Counts 1 and 2 and ordered the probation office in the Central
16 District of Illinois to prepare a Presentence Investigation
17 Report and set this matter for sentencing.

18 The pretrial -- the Presentence Investigation
19 Report has been prepared by Ms. White, and she prepared that
20 on May the 2nd and revised it on May the 21st, 2003.

21 On page 17 of the presentence report, Richard
22 N. Cox, the assistant U.S. attorney who is present in court
23 and handled this case, is handling this case -- Mr. Cox
24 advised that the United States of America had no objections to
25 the Presentence Investigation Report.

1 Mr. Cox, is that still correct? After receiving
2 and reviewing the presentence report, the government has no
3 objections to its findings?

4 MR. COX: That's correct, Your Honor.

5 THE COURT: And the defendant has been represented
6 throughout by defense counsel Robert A. Alvarado. Mr.
7 Alvarado in a letter dated May 20, 2003, advised that he had
8 no unresolved objections to the presentence report.

9 Mr. Alvarado, is that accurate and correct that you
10 had no unresolved objections and still to this day have no
11 unresolved objections?

12 MR. ALVARADO: That is correct, Judge.

13 THE COURT: Have you also had the opportunity to
14 discuss the presentence report with Mr. Douglas?

15 MR. ALVARADO: Yes, I have.

16 THE COURT: And in reviewing the Presentence
17 Investigation Report, did he indicate to you that he had any
18 objections to it?

19 MR. ALVARADO: Only regarding a matter that we've
20 already resolved with probation.

21 THE COURT: So when it was revised, that matter had
22 been resolved?

23 MR. ALVARADO: Correct.

24 THE COURT: And following the revision on May 21st,
25 you indicated to Mr. Douglas that the change had been made; is

1 that correct?

2 MR. ALVARADO: Yes, Judge.

3 THE COURT: And that because of the change being
4 made that you had no further objections to the presentence
5 report?

6 MR. ALVARADO: That is correct, Judge.

7 THE COURT: Did he indicate any further objections
8 to you?

9 MR. ALVARADO: No, Your Honor.

10 THE COURT: Mr. Douglas, have you received and
11 reviewed the Presentence Investigation Report in this case?

12 DEFENDANT DOUGLAS: Yes, sir.

13 THE COURT: Have you discussed it with Mr.
14 Alvarado?

15 DEFENDANT DOUGLAS: Yes, sir.

16 THE COURT: And did you indicate to him that you
17 would like a matter to be changed or resolved, that you had a
18 matter that you wanted to be reviewed by probation?

19 DEFENDANT DOUGLAS: Yes.

20 THE COURT: And did they ultimately resolve that to
21 your satisfaction?

22 DEFENDANT DOUGLAS: Yes, sir.

23 THE COURT: And do you have any objections to the
24 revised presentence report of Ms. White?

25 DEFENDANT DOUGLAS: No, sir.

1 THE COURT: You're aware that Mr. Alvarado has no
2 objections to the revised report?

3 DEFENDANT DOUGLAS: Yes, sir.

4 THE COURT: And you have a right if you wish to
5 raise objections that you may have, and then the Court would
6 hear those objections and rule on them by a preponderance of
7 the evidence before we would proceed to sentencing.

8 So do you have any independent objections that you
9 would want the Court to hear at this time?

10 DEFENDANT DOUGLAS: No.

11 THE COURT: Did anybody force you to say that?

12 DEFENDANT DOUGLAS: No, sir.

13 THE COURT: Threaten you in any way?

14 DEFENDANT DOUGLAS: No, sir.

15 THE COURT: Promise you anything to get you to say
16 that?

17 DEFENDANT DOUGLAS: No, sir.

18 THE COURT: The Court at this time will find that
19 the Presentence Investigation Report prepared first on May
20 2nd, revised on May 21st of this year by Ms. White has been
21 received and reviewed by Mr. Cox, Mr. Alvarado, and Mr.
22 Douglas and that following the revision of that report that
23 the United States of America, based on its review, has no
24 objections.

25 Mr. Alvarado on behalf of the defendant has no

1 objections, and Mr. Douglas has no objections. Mr. Douglas
2 has reviewed it with his counsel, as well as having the matter
3 resolved by probation following the resolution of -- and
4 revision on May 21st. Mr. Douglas has no remaining objections
5 to the presentence report. He's been offered an opportunity
6 if he had independent objections to raise them. He's
7 indicated that he does not; and also the Court finds that he
8 has not been forced, threatened, or promised in any way to
9 make that statement.

10 The Court has also had an opportunity to receive
11 and review the Presentence Investigation Report and finds by a
12 preponderance of the evidence that the Court accepts those
13 findings of the probation office set forth in pages 1 through
14 16. Paragraph 1 through 82 are now adopted by the Court as
15 the findings of the Court by a preponderance of the evidence
16 on today's date.

17 With the Presentence Investigation Report having
18 been accepted, the defendant has an offense level 32/criminal
19 history category II. That is your calculation, Ms. White?

20 PROBATION OFFICER WHITE: Yes, Your Honor.

21 THE COURT: You've agreed with that, Mr. Cox?

22 MR. COX: I have, Your Honor.

23 THE COURT: And you've also agreed with that, Mr.
24 Alvarado?

25 MR. ALVARADO: Yes, sir.

1 THE COURT: For a defendant with an offense level
2 32/criminal history category II, the statute provides for
3 Count 1, imprisonment of ten years to life and, Count 2, for
4 life imprisonment under the statute because of the two prior
5 convictions.

6 Do you agree that's what the statute provides, Ms.
7 White?

8 PROBATION OFFICER WHITE: Yes, Your Honor.

9 THE COURT: And the guidelines in this case would
10 provide for an offense level 32/criminal history category II a
11 guideline range of 135 to 168 months; but on Count 2, the
12 guideline provisions would have been 135 to 168 months were
13 this not a mandatory minimum life sentence case as a result of
14 the defendant's two prior qualifying convictions. As such,
15 under Count 2, the guideline provisions are a minimum
16 mandatory life imprisonment.

17 Ms. White, has the Court accurately stated the
18 statutory and guideline provisions for custody that Mr.
19 Douglas faces in this case?

20 PROBATION OFFICER WHITE: Yes, Your Honor.

21 THE COURT: Do you agree, Mr. Cox?

22 MR. COX: I do, Your Honor.

23 THE COURT: Do you agree, Mr. Alvarado?

24 MR. ALVARADO: We agree, Judge.

25 THE COURT: Probation under the statute as to

1 either count is not authorized. The same is true under the
2 guideline provisions. Probation is not authorized under
3 either count.

4 Supervised release under the statute would not be
5 authorized, nor would it for either count as to the guideline
6 provisions.

7 Do you agree with the characterization the Court's
8 made relative to probation not being an option nor supervised
9 release, Ms. White?

10 PROBATION OFFICER WHITE: Yes, Your Honor.

11 THE COURT: You agree also, Mr. Cox?

12 MR. COX: Yes, Your Honor.

13 THE COURT: Do you concur also, Mr. Alvarado?

14 MR. ALVARADO: We agree, Judge.

15 THE COURT: Community restitution would apply in
16 this case as to the statute and the guidelines. A fine range
17 is available if the defendant was found to have the ability to
18 pay. Under the statute, it could be up to \$4 million and up
19 to -- on Count 1 and Count 2 up to \$8 million under the
20 statute.

21 Under the guideline provisions if the defendant had
22 the ability to pay, Counts 1 and 2 would have a guideline fine
23 range of \$17,500 up to 12 million if the defendant had the
24 ability to pay.

25 Under both the guidelines and statute, the

1 defendant would be responsible and due and owing today a
2 special assessment to the United States in the amount of \$200
3 in either the statutory provision or the guideline provision.

4 Ms. White, has the Court accurately stated under
5 both the statute and the guidelines the restitution, fine, and
6 special assessments applicable in this case?

7 PROBATION OFFICER WHITE: Yes, Your Honor.

8 THE COURT: Mr. Cox, do you likewise agree?

9 MR. COX: Yes, Your Honor.

10 THE COURT: And Mr. Alvarado, do you also agree?

11 MR. ALVARADO: Yes, sir.

12 THE COURT: There has been a motion in this case
13 filed by the defendant, Edward Douglas, on June the 2nd, 2003,
14 docketed as number 52, for a continuance of the sentencing
15 hearing.

16 The government has responded to the motion by
17 filing in docket entry 53 a June 4th filing indicating in that
18 filing that the defendant through Mr. Alvarado has
19 communicated with the assistant U. S. attorney, Mr. Cox,
20 regarding the possibility of a disposition avoiding the
21 otherwise required minimum mandatory term of life
22 imprisonment.

23 It says: The undersigned -- meaning Mr. Cox --
24 declined these overtures. As he has every right to do so, the
25 defendant, Edward M. Douglas, now seeks a continuance in order

1 to allow him the opportunity to have the matter reviewed by
2 Mr. Cox' supervisors.

3 In the paragraph 3, page 2, it says, "After his
4 review, the United States Attorney," which would be Jan Paul
5 Miller for the Central District of Illinois, "has concluded
6 that under the circumstances and posture of this case, no
7 alternative to the required imposition of life imprisonment
8 would be appropriate. In view of this," Mr. Cox states,
9 "there is no reason to delay the scheduled sentencing" in this
10 matter.

11 Mr. Cox, do you wish to be heard further on the
12 opposition to the motion to continue?

13 MR. COX: No, Your Honor.

14 THE COURT: Mr. Alvarado, do you wish to be heard
15 further on your motion for continuance?

16 MR. ALVARADO: Yes, Your Honor, very briefly.

17 THE COURT: You may be heard.

18 MR. ALVARADO: Your Honor, Mr. Douglas has asked me
19 to ask you if we could still continue the sentencing hearing
20 for approximately 30 days. One of the reasons why we were
21 going to go to Mr. Miller was to present letters of support on
22 his behalf that we have not yet received.

23 We have letters from the defendant that we can
24 present to the Court today and one from his daughter. But Mr.
25 Douglas tells me that he believes he will still have other

1 letters of support for him.

2 Now, I've advised Mr. Douglas that the number of
3 letters would not matter to this Court, that the Court would
4 have no discretion but to impose a life sentence. But he
5 still asked me to present that to you.

6 THE COURT: Mr. Cox, response.

7 MR. COX: Your Honor, I understand what Mr. Douglas
8 is suggesting, but it will not change the result that has to
9 happen today; and that's the reason I don't think a
10 continuance is necessary or warranted.

11 THE COURT: Mr. Alvarado, will you present to the
12 deputy clerk those letters that you do have in your possession
13 at this time.

14 MR. ALVARADO: Yes, Judge.

15 THE COURT: If you'll have -- Mr. Alvarado, if
16 you'll have the microphone brought over in front of Mr.
17 Douglas.

18 Mr. Douglas, we have a number of people in the
19 courtroom -- of course, I have a number of hearings this
20 afternoon. So I do not know who is in the courtroom for your
21 hearing, the first case in the afternoon, or for the other
22 cases that will take the rest of the afternoon.

23 So if you would on the record indicate any family
24 or friends that are here for your sentencing, starting with
25 the left hand -- to your left-hand side there in the courtroom

1 and moving across with any individuals who you can identify.

2 DEFENDANT DOUGLAS: I have my auntie in the blue
3 shirt, my mother's sister.

4 THE COURT: And her name?

5 DEFENDANT DOUGLAS: Jennetta Russell (phonetic).

6 THE COURT: Okay. Thank you for being here.

7 DEFENDANT DOUGLAS: I have my girlfriend in the
8 orange shirt in the middle, which is Mary James.

9 THE COURT: Thank you. Thank you for being here.

10 DEFENDANT DOUGLAS: And my mother, Vera Douglas.
11 She's well now.

12 THE COURT: Thank you for being here.

13 DEFENDANT DOUGLAS: And I have my uncle in the back
14 in the plaid shirt, Roosevelt Campbell.

15 THE COURT: Thank you, Mr. Campbell, for being
16 here.

17 DEFENDANT DOUGLAS: And I have my friend, Charles
18 Hill.

19 THE COURT: Charles Hill, thank you.

20 DEFENDANT DOUGLAS: And I have my God brother.

21 THE COURT: His name.

22 DEFENDANT DOUGLAS: It's been so long. Emmanuel.

23 THE COURT: Emmanuel?

24 DEFENDANT DOUGLAS: Yeah, Emmanuel Hill.

25 THE COURT: Okay.

1 DEFENDANT DOUGLAS: And I have also have a friend
2 named Beth Caviness. She went into the washroom, I assume.

3 THE COURT: So the first letter that I have before
4 me is from Mr. Douglas, and I will take a -- I will have it
5 file-stamped and take a second to read it.

6 MR. ALVARADO: By the way, Your Honor, I've already
7 given copies to Mr. Cox.

8 THE COURT: Thank you. I was going to ask that
9 next.

10 I'll read this. Mr. Douglas says, "I am writing to
11 you for you to review my case and grant the new trial motion
12 or the --"

13 MR. ALVARADO: I believe it's acquittal.

14 THE COURT: Acquittal, okay. And there's no date
15 on the letter.

16 I think the Court has denied all of the post-trial
17 motions in this case. So there are no motions pending and no
18 reason for me to review any previous decisions I've made. I
19 do believe the defendant was afforded a fair trial. I would
20 like to say everyone's afforded a perfect trial, but the
21 Constitution does not require a perfect trial. And I hope
22 that it was a perfect trial; but if it was not, I believe that
23 any errors that the Court may have made would have been
24 harmless and would not in any way affect the overwhelming
25 evidence of guilt that was presented to the jury and the

1 jury's verdict in this case as well as the procedures. So the
2 Court believes the defendant has received a fair trial in all
3 respects from the Court and that the Court will be affirmed by
4 the Seventh Circuit Court of Appeals upon appeal of any of the
5 decisions I've made in this case.

6 It then next picks up; it says, "I know you get
7 people writing to you all the time, but this is a little
8 different. Listen to my lawyer, and you will hear and see the
9 fact. Listen to your heart. It's not as cold as you said
10 early when I was coming to court. But what really hurt was
11 when you said that you can't trust me, and you trust me enough
12 to let me out there when I was coming to court."

13 Actually, I think Judge Bernthal trusted you
14 enough. The government did not appeal to me that decision.
15 So that decision did stay in full force and effect. And while
16 we had early on some confusion about either bus times or being
17 here and you were late, I do -- did find you always to be
18 here; and, therefore, the Court, of course, never took any
19 action to revoke your order of conditions of release because
20 you were, in fact, showing up.

21 And it does say, "When I was coming to court, that
22 all I ask was to leave me out there to my sentencing date."

23 Well, of course, as I ruled on that, it is a
24 mandatory imprisonment; and it only takes extraordinary
25 circumstances. Especially in your case, it would have taken

1 incredible circumstances for me to allow somebody out on bail
2 following a conviction of a mandatory life sentence. So the
3 mandatory life sentence is no surprise in this case. It was
4 always facing you based on your prior convictions and with the
5 notice the government had filed. So that's why I made that
6 decision. I think that's clear from the record.

7 And it said, "So I can attend my oldest child
8 grammar school graduation and get my business straight with my
9 job and my family. I didn't even have a chance to see my kid
10 or mother because I thought the jury would see the lie and
11 frame of my case."

12 This case started with a criminal complaint on May
13 29, 2001; a jury verdict on February 27, 2003; an indictment
14 on May 3, 2002. So, actually, almost several years passed
15 from its inception to its completion.

16 And Mr. Alvarado is very able counsel. In fact, he
17 has been involved in cases involving death sentences. So over
18 his years of experience, he's handled everything from traffic
19 to murder with death sentences. And so I have no question
20 that Mr. Alvarado would have attempted to negotiate the best
21 deal and would have never minimized the seriousness of what a
22 conviction in this case would lead to.

23 So it's not like you were brought in here one day
24 and convicted the next. I think adequate time clearly passed
25 for you to know the seriousness of the consequences of a

1 conviction and adequate time to prepare your business affairs
2 in life.

3 That also would not be an exclusion from the
4 statutory requirement of mandatory custody. All people have
5 unfinished business; and if that was a reason for a delay,
6 we'd never have a sentencing. We'd always have further
7 business to be taken care of.

8 It then says, "I've been a," looks like, "standard
9 citizen for a lot of years. I was not associating in anything
10 wrong."

11 Well, that's not what the jury found, and you have
12 two prior convictions also.

13 "I was working. My girl was working. My
14 five-year-old going to school for the first time. I know
15 you're a dad and have been through this."

16 Actually, I'm still going through it. I have a
17 24-year-old and a nine-year-old.

18 "So you know how it is to be a proud father. The
19 jury was wrong, and you could have made it right."

20 Well, yes, I could have. If I thought the jury was
21 wrong, I would not have entered the judgment of conviction. I
22 would have acquitted you outright and set the jury verdict
23 aside. I do not believe the jury was wrong, and I also do not
24 believe that you were a truthful witness when you testified at
25 trial.

1 "All I am asking is that you give it some thought
2 and follow your heart. Put right back into justice. I always
3 preach my kid between right and wrong; don't make the mistake
4 that I made. But look at my life before this wrong
5 imprisonment. I'm sorry if I sound a little mad."

6 Actually, you're writing very well. There's no
7 profanities in here. You'd be amazed how many times they
8 start out with, "Judge, you no-good" -- and they go on from
9 there.

10 "I am sorry if I sound a little mad, but it is
11 because justice was not served in this case. If it all about
12 get a conviction, even if it's wrong, that's not right. I
13 know years ago I was doing bad things. But when they decided
14 to send Carl Williams at me, it was --"

15 MR. ALVARADO: I was legit.

16 THE COURT: "-- I was legit. I am not that person
17 the DA said. I was just mad at Carl Williams about my
18 grandfather dying in jail. So I was taking his money. But I
19 hope you don't let me die in there. I hope I get a real
20 chance to put on the whole case for my life and kid and
21 mother.

22 "I thank you for reading my letter. I am not that
23 person that you said and run off the bench. When you said
24 that, that not true. I will be there on June 6 if you could
25 let me out for my child's grammar school graduation. Thank

1 you, Edward Douglas."

2 The next letter -- and I won't read all this, but
3 I -- well, it is another letter from Mr. Douglas. So I will
4 read this. It says, "The first thing that stay on my mind is
5 that you call me a liar."

6 I have.

7 "And you don't trust me."

8 That's correct.

9 "But you trusted me enough to leave me out there
10 until my trial was over."

11 Again, that's because you showed up, and that's
12 because Judge Bernthal trusted you.

13 "I am a true Christian man. I was obeying the law.
14 I did not get in any trouble before this setup and after this
15 setup. Criminals stay in trouble." I don't know. Can you
16 help me, Mr. Alvarado?

17 MR. ALVARADO: But I was a working guy.

18 THE COURT: Well, before that. That --

19 MR. ALVARADO: Criminals stay in trouble, but I
20 was --

21 THE COURT: Okay. "Criminals stay in trouble, but
22 I was a working guy going to church/father. You believe a
23 liar, and the jury or district --"

24 MR. ALVARADO: You didn't even --

25 THE COURT: Give me a chance --

1 MR. ALVARADO: -- give me a chance.

2 THE COURT: "-- to put on a defense. You gave my
3 lawyer a gun without a bullet. You could have looked at all
4 the evidence and saw all the lies and inconsistencies in the
5 DA's case and Carl Williams. The DA did they job; but it was
6 a lot of lie, and you could have put justice back in that
7 courtroom.

8 "Is it all about guilty when a man is innocent? I
9 know you are a fair judge. I thought that I was going to take
10 a bench trial, but my lawyer told me not to 'cause you said
11 that they used to call you hang judge.

12 "I will never see my kid grow up, and believe you
13 can find out I am a good person and a honest one that take
14 care his kid, and they are going to high school this year. I
15 will miss that. And my youngest one grow up because I am get
16 life for something that I didn't do. But my Lord told me:
17 Don't give up. He was just punishing me for slacking back a
18 little. I was not going to church --"

19 DEFENDANT DOUGLAS: As often.

20 THE COURT: "-- as often as I should. I grow in
21 church. I never said that I didn't do a couple of bad things,
22 but I paid for that. Why are you and the DA making me pay for
23 something I didn't do?

24 "I could have worked with KKK and stay out of this,
25 but they are crooked to the core."

1 I'm assuming that's Kankakee County.

2 "I could have worked with KKK and stay out of this,
3 but they are crooked to the core; and I didn't want no more
4 part of it. So you think if I was guilty that I wouldn't have
5 taken that free ride like Carl Williams? Thank you anyway.

6 "Judge, I know you think for whatever reason it is
7 wrong. I know that you have dealt with all kind of people
8 being in the type of job that you're in. But you mean to tell
9 me that you never been wrong? If so, you are wrong about me."

10 Well, you'll get the chance to appeal, and I have
11 never been reversed in a criminal jury trial. So maybe you'll
12 be the first; and if so, fine. I believe in the system. I
13 believe in the right to appeal, and I believe you'll have that
14 opportunity to present your case to the Seventh Circuit Court
15 of Appeals if I did not give you a fair trial or violated your
16 constitutional rights in any manner. And, of course, on your
17 appeal, we'll give you a free transcript of all proceedings to
18 perfect your appeal. And good luck. If I violated somebody's
19 rights, I want to be reversed; and if I've done that to you, I
20 certainly hope that they will give you that relief.

21 I don't think I've done those things, and I don't
22 think you'll be successful, which is another reason why I'm
23 not allowing you to be free pending appeal.

24 "The jury was wrong, too. I don't want to get it
25 to why. I think the jury found me guilty; but, remember, you

1 could have acquitted me. Believe me when I say that I am a
2 God-righteous man now, and then I know you heard a lot of
3 things before. But my family, meaning my girlfriend of seven
4 and a half years, and my two son -- Duriel, 5; Damuria, 2 --
5 have to leave the house that we was living in because I got
6 locked up, and she couldn't keep up with the rent. I know
7 that might not mean anything to you but it do to me.

8 "My daughter, oldest one, is going to high school,
9 and I want to be there. My kid wrote you a letter. I don't
10 know why my lawyer didn't give it to you. Thank you anyway
11 for reading the letter.

12 "I truly do mean I am an honest man. I come to
13 every court hearing, keep the law. Now you tell me: Is that
14 the act of a bad person? I am not sitting here saying that I
15 always been a model citizen. But when those officers of the
16 law sent Carl Williams at me, believe, regardless of what you
17 say or think, I will never lie to a judge. Everything I ever
18 did I take responsibly for it but not this. I keep my --"

19 DEFENDANT DOUGLAS: Keep saying.

20 THE COURT: "I keep saying Kankakee offered me a
21 lot of chance to make this go away, but they was not right
22 with how they was trying to set people. So I couldn't keep
23 doing that because I didn't like how it was done for me.

24 "I am sorry that I was taking the agent money, but
25 I thought that it was Carl Williams'.

1 "I don't know what else to say, but I guess I will
2 be there at court, an innocent man. That what I will say. I
3 can't say nothing else. Thank you, Edward Douglas."

4 And the next letter is -- is it Cierra?

5 DEFENDANT DOUGLAS: Yes.

6 THE COURT: Cierra, is that how you pronounce it?

7 DEFENDANT DOUGLAS: Cierra.

8 THE COURT: "My name is Cierra Douglas. I am
9 writing on behalf of my brother and sister to -- I ask with
10 the utmost respect: Could you please release my daddy into
11 his, onto his sentencing date so he can pay for my grammar
12 school graduation at the end of May.

13 "Please, sir, my dad is the only person beside my
14 grandmother that do for all of us, which is five. I will make
15 sure that he is back on that day, June 6. Me and my brother,
16 sister will be with him because I will be out of school then.
17 I will never lie to a judge.

18 "My father been there all of our life from the
19 first step to my birthday. I am the oldest out of his kid,
20 the one that going to high school. I'm writing you because if
21 you are planning to take my father away forever, just give him
22 the time to see me graduate from school; and I'm ask please
23 don't take my father away forever because my father told us
24 that he didn't do it, and he never lied to us yet.

25 "I say if he did it, he should be punished but not

1 for life. My dad is a great dad because he is always there
2 for us and giving us when he can. My father is a church-going
3 man. I know for a fact that my father's been" -- I can't read
4 that -- "his life around and please don't tell my father that
5 I wrote you because he told me not to write you because you
6 have a heart of cold stone.

7 "I will promise you on 6 June me and my family will
8 walk in your courtroom proud to be with my daddy. Please
9 don't send him away forever. I am a Sunday school teacher of
10 young teenagers.

11 "Thank you very much for taking the time out for
12 us. He is one of the good people that someone trying to take
13 from their family.

14 "Love," looks like, "love more kid from Cierra,
15 14," and then it goes through one, two, three, four, five --
16 the six kids, or seven, and their ages, all the way down to
17 Damuria, age one and a half.

18 The next is from Cierra. It says, "Please give my
19 daddy a new trial. I would be very thank you if you could
20 acquit him. I know I'm asking for a lot for you not to know
21 me or my daddy, but I can honestly say he is a good man and an
22 honest one. If he say he didn't do it, I have to believe him.
23 He never told me a lie yet, Your Honor, and that no lie.
24 Cierra Douglas and family." Smiling face. I don't know
25 whether it says "have" or "love a heart."

1 Next letter. "Dear Mr. McCuskey" -- and that
2 doesn't -- do you know who wrote this letter? I don't see a
3 signature?

4 MR. ALVARADO: Your Honor, that was written by Mr.
5 Douglas.

6 THE COURT: Okay. "Dear Mr. McCuskey: I am just
7 sitting here think: How could you not look at all the
8 evidence that was given to you and come to the right verdict?
9 You could have acquitted me, but I guess the system is about
10 guilty. I know it would have been all right to let me go.
11 Just look at this point.

12 "One, I haven't been in trouble besides traffic."

13 Well, that's hard to believe. You've got two
14 convictions for something other than traffic.

15 "Two, Kankakee is crooked to the core.

16 "Three, Carl Williams is a liar. You left me on
17 the street, and I didn't get into trouble.

18 "Four, a working man, father, and common law
19 husband.

20 "Five, taking care of sick mother.

21 "Six, I could have stay, help those crooked people;
22 but I could do to them what they did to me. I know at first I
23 thought that the system was fair, but it show me.

24 "I was an angel of the law my first 25 years. Then
25 I became a bad angel for a few years, but then I became that

1 angel I once was. Remember this: You told me that you didn't
2 trust me in court, but you left me on the street."

3 Maybe we should -- Mr. Cox, you should appeal all
4 these because when I was a circuit judge hardly anybody was on
5 the street because of their prior record, and Mr. Douglas had
6 a prior record. So maybe the government should start
7 appealing these decisions.

8 "And I was not no threat to anybody then and now.
9 I also remember you tell me like you knew that I would be
10 found guilty. When I was late you told me that --"

11 Boy, I don't remember -- I've never told anybody
12 they'd be found guilty. I might tell them that they should
13 think about the offer and think about the possibility of
14 conviction because in my lifetime I was never a prosecutor.
15 In fact, starting next month, I'll start receiving a pension
16 from the State of Illinois for twelve and a half years of
17 service as a public defender as a 55-year-old pensioner.
18 Thank God I like the State of Illinois.

19 But I've sat literally in hundreds of cases, Mr.
20 Douglas. In fact, I remember a case -- if I could recall the
21 person, Mr. Alvarado probably remembers it from LaSalle
22 County.

23 My partner and I were involved in representing a
24 gentleman charged with murder. He was housed in LaSalle
25 County with another gentleman housed in LaSalle County for

1 murder. So they become friends in LaSalle County.

2 And the one defendant receives an offer and says,
3 "I'm not gonna take that offer. I'm going to go to
4 trial. My lawyer says there's a good chance I'll be found
5 guilty, but I'm going to go to trial. And you shouldn't
6 listen to your lawyers. They're probably trying to railroad
7 you."

8 Well, our client did listen to us. He pled guilty,
9 received a 20-year sentence. He's out. He served nine and a
10 half years of the 20 years for murder in the State of
11 Illinois. He's been out for a long, long time.

12 The other gentleman turned down his offer, went to
13 trial, and he was convicted in LaSalle County; and he's now
14 serving a life sentence.

15 Two cases, one listened to the lawyer. The other
16 one didn't. You go to law school, and you this do for a
17 living because you have an understanding of the system.

18 If somebody said you need to have brain surgery,
19 would you go in the back alley and find a friend to take a
20 knife to your head, or would you find a doctor? People ignore
21 lawyers all the time, and they pay a horrible penalty for
22 refusing to take professional advice.

23 I never said you were guilty. A jury did. But you
24 did not make a reasoned decision in this case; and just like
25 that person that didn't listen to my partner or me, it was a

1 horrible decision.

2 People don't commit surgery on themselves. They
3 listen to doctors. But they ignore lawyers every day of their
4 life and think they're smarter than lawyers, and many times
5 they've made a horrible mistake.

6 "I'm not going back to my CTA job when I found
7 guilty. Because I didn't accept they offer doesn't mean I did
8 it. I could have accept or stay working for," Kankakee
9 County, "KKK. But I didn't do anything beside try to take
10 that money. I am guilty of that and that only. I beg of you
11 to listen to me and all my friends and family. I am a honest
12 and good man. I was respecting the law then, and I respecting
13 the law now.

14 "I know you have heard a lot of stories, but if you
15 think this is only -- it is true. Just look and listen to the
16 evidence and your heart. I remember you said they call you a
17 hanging judge."

18 I don't remember saying that. In fact, that's
19 never been my nickname.

20 "If I not mistaken let me loose from the neck. I
21 am a truth person. I have nine main reasons to live for but
22 life is not one those reasons when you know you have did what
23 they say. I know that you earn your stripe, and I think I
24 earned me some.

25 Nothing let you all I ask is that you ask or find

1 out the type of gentleman I am. I didn't do it. My kid need
2 me. That was the number one reason why I stop breaking the
3 law and because it was not right in God.

4 "I cite the system, KKK system," Kankakee County
5 system, "is crooked, and it put me here. You can make it
6 right. Give me another chance to prove myself again. I was
7 doing it. I am through taking it. A lot more I can say, but
8 I know you're about tired of reading. I am one of the good
9 ones that came back like born again. I have young one that
10 just born. I know that don't make a difference to you. I
11 hope it do. That why I became the person that I am.

12 "KKK," Kankakee County, "was mad because I wouldn't
13 set people up the way they did me. That why it took so long
14 to put this case together. I am sorry for the money I tried
15 to take from them."

16 Mr. Alvarado, would that be all of the letters that
17 have been submitted?

18 MR. ALVARADO: Yes, Judge, for today.

19 THE COURT: Okay. The Court will have the deputy
20 clerk file all of them. I've read them. Make sure they're in
21 the right sequence.

22 So the Court has received and read into the record
23 those letters. And do you wish to be heard further on the
24 motion to continue, Mr. Alvarado?

25 MR. ALVARADO: No, Your Honor.

1 THE COURT: Any further response before the Court
2 rules, Mr. Cox?

3 MR. COX: No, Your Honor.

4 THE COURT: The Court denies the motion for
5 continuance of the sentencing hearing. The only letter that
6 would be important to this Court at this point is from the
7 President of the United States of America. He is the only
8 person that can change the sentence that has been mandated by
9 Congress, signed into law by the President of the United
10 States, and imposed by me.

11 I didn't make the law. I didn't sign the law. And
12 I can tell you with Mr. Cox sitting here because I'm sure he's
13 aware that if I would announce right now at 2:14, "Mr.
14 Douglas, go free. Leave with your family and go free from
15 this courtroom," he would have the United States marshals
16 follow you; and probably within an hour the Seventh Circuit
17 Court of Appeals would issue an order directing the marshals
18 to take you into custody and hold you pending your appeal
19 because I do not have the right to do that.

20 I do not have the right to set you free. I do not
21 have the right to give you any sentence less than the
22 mandatory minimum based on your prior two convictions and this
23 conviction. Only the President of the United States can take
24 the action to grant you a pardon to change the outcome.

25 So there is no reason to further continue this

1 sentencing. There is nothing that I can do to change what I'm
2 sure Mr. Alvarado told you many times and the government set
3 in place with your prior two convictions. This will not be
4 the first time that anybody faces me with a mandatory minimum
5 life where they have never been sentenced to jail before.

6 This is the federal system, and the federal system
7 says if you have two qualifying convictions and the government
8 gives notice of them and you are convicted for the third time
9 in a drug case, you will face and be sentenced to life
10 imprisonment.

11 That law has been on the books for more than 20
12 years. It is a surprise to almost everybody. It was a
13 surprise when I came here five years ago. But it is the law.
14 And no congressman or senator and no president has sought to
15 change it.

16 And there's nothing I can do about that. So that
17 is the only letter that would have meaning, if the President
18 of the United States was going to pardon you. That is always
19 a possibility, and that is the power of the President. It is
20 not the power of this federal judge.

21 Motion for continuance denied.

22 Mr. Cox, will the government be presenting any
23 evidence in aggravation or any witnesses whatsoever today?

24 MR. COX: No, Your Honor.

25 THE COURT: Mr. Alvarado -- well, Mr. Douglas, you

1 will be able to address me further before the Court imposes
2 sentence. You'll be given the opportunity to take the podium
3 with Mr. Alvarado and say anything that you wish to your
4 family and friends who are here and for the record.

5 Mr. Alvarado, will there be any live witnesses
6 called other than Mr. Douglas' right of allocution?

7 MR. ALVARADO: No, Your Honor.

8 THE COURT: The recommendation of the United States
9 is to impose the law; is that correct, Mr. Cox?

10 MR. COX: That's correct, Your Honor. And I will
11 say, because I think it's important, we went to extraordinary
12 lengths in this case to save Mr. Douglas from the fate he
13 faces today. We went above and beyond the call that any
14 defendant in my 25 years as a prosecutor has ever been
15 afforded by the United States.

16 As is his choice, his choice alone, he declined
17 every offer from the United States that would have subjected
18 him to any punishment less than he faces today. He's known
19 that since the day he was arrested when we informed him
20 because of his prior convictions and the amount of crack he
21 was involved with he was looking at life imprisonment.

22 We gave him almost one year to cooperate. He
23 didn't do that. So we indicted him.

24 We still told him, "You face life imprisonment.
25 Let's try to arrange a different punishment at the end." All

1 the way almost up to the trial in this case, as you will
2 recall, Your Honor, we tried an alternative resolution for Mr.
3 Douglas. He didn't wish to have that. That's his right, and
4 so today there's nothing to do but to impose the law, and
5 that's life imprisonment.

6 THE COURT: Mr. Alvarado, you may be heard.

7 MR. ALVARADO: Well, Your Honor, there isn't much I
8 can say except to comment briefly on what Mr. Cox said.

9 Yes, there were negotiations; and, yes, Mr. Douglas
10 could have received quite a less severe sentence than he will
11 have to receive right now. And I can only conclude a couple
12 of things about that. Either Mr. Douglas is crazy, or he's
13 innocent. And Mr. Douglas is not crazy. He is absolutely
14 completely competent and fit. So that only leaves one
15 alternative, and I think Mr. Douglas has something to say to
16 you about that.

17 THE COURT: Mr. Douglas, you may take the podium.
18 Mr. Alvarado will accompany you, and you may speak to the
19 Court for the record and to your family and friends who are
20 here.

21 DEFENDANT DOUGLAS: Excuse me. I'm nervous.

22 THE COURT: Take your time.

23 DEFENDANT DOUGLAS: Well, I just want to tell my
24 mother, aunties and kids what happened, that I love them, and
25 it's gonna be all right.

1 And I'm just standing in front of you as an
2 innocent man, regarding that I'm fendin' to go to jail for
3 life. You know, regardless that I been found guilty, you
4 know, I didn't do it. And that's what I'm saying. You know,
5 regardless of what the jury said, you know -- you know, I
6 ain't gonna get into it, you know, what I thought of their
7 verdict or whatever, you know. But -- and it is a
8 catastrophe, you know.

9 And I ain't sitting up here saying that I haven't
10 did things in my life, you know, that I'm proud of, you know,
11 far as, you know, when I was that person, you know, doing some
12 bad things. I did some bad things; but like I wrote in my
13 letter, you know, I became that great person that I was, once
14 was. And when they decide to, you know, do whatever they did,
15 or however they did to come at me, you know, I wasn't doing
16 nothing.

17 And like Mr. Cox said, you know, everything that
18 he, you know -- and he was a right person far as, you know,
19 the offers that he gave me, you know. But I -- and I told my
20 lawyer that, you know, the offer that he gave me, I can't see
21 myself accepting it, you know, regardless if I get life or
22 whatever because I didn't do it. You know, and you sit here
23 and you say, you know, I never said that you said that -- I
24 forgot the quote that you said when you said that you speaking
25 about how you know people that murder people don't get life,

1 you know. You know, I might --

2 THE COURT: That's exactly right.

3 DEFENDANT DOUGLAS: Right.

4 THE COURT: Very few people that commit a murder in
5 this state get life, but that's the State system.

6 DEFENDANT DOUGLAS: Right.

7 THE COURT: You're now in Federal Court.

8 DEFENDANT DOUGLAS: And probably correct the wrong.

9 Well, I was just frankly speaking that, you know, the two
10 priors that I did have, that was years ago. And from that
11 point on, you know, I been a model citizen. You know, I ain't
12 do nothing but work and take care of my kids, you know. And
13 like to say the money -- if it was all about the money, you
14 know, I could have paid that back in installments or whatever;
15 but, you know, they just -- the system did what it, you know,
16 did to me, you know.

17 I guess, you know, like you say, can't nobody but
18 the President pardon me. I guess, you know, I just write to
19 him every day, you know. If he listen to me -- if he don't,
20 he don't. You know, but I'm gonna be -- one thing I'm gonna
21 do, be writing to him as an innocent man, you know. And if I
22 have to just die, you know, that was the chance that I take.

23 Like you say, you know, even surgeons be wrong,
24 too. You know, and I ain't never say that Mr. Alvarado was
25 wrong about, you know, the law. I never told him that he was

1 wrong.

2 Everything he -- he did everything that he could;
3 but me being innocent, I wasn't gonna accept nothing less but
4 coming to trial to prove my innocence. You know, and not one
5 time did I get up there on the stand and lie to you. You can
6 go in there and say that I did, you know; but I know I didn't.
7 And God know I didn't.

8 And like my mother always tell me, you know, just
9 believe in Him, which I do; and I'll be back in front of you,
10 you know -- you know, an innocent man, you know. Even on
11 appeal or whatever. I'll be back in front of you. And I'm
12 gonna be back in front of you as the same -- if they find me
13 guilty again, I be back in front of you as the same innocent
14 man I was when I first sat in that seat, you know.

15 So although I'm getting life or whatever, you know,
16 I know that I'm not gonna be in there for life, you know. My
17 mother, you know, she, you know, kind of sick -- not right
18 now; but, you know, you just hold on and, you know, tell Mary,
19 you know, just take care of the kids and, you know, do
20 whatever you have to do and speak to my relative and Uncle
21 Roosevelt, you know. Y'all just don't give up on me 'cause
22 I'm gonna be all right. Just believe that.

23 You know, that's all. That's what I have to say.
24 Just one more thing. I'll be back. I'll be back. I might be
25 leaving right now, but I'll be back; and I'll still -- even if

1 they sent me back, I'm gonna still be going back as an
2 innocent man. I never say I was -- because everything that I
3 ever did I took responsibility from doing it. You know, and I
4 ain't gonna sit here and take responsibility for doing
5 something that I didn't do regardless that they found me
6 guilty, you know.

7 And regardless, you know, the things that the DA
8 say or whatever, you know. And Mr. Cox, you know, he was a
9 right person. You know, and I appreciate a lot of things that
10 he did try to do, you know.

11 But to him, you know, I just couldn't accept that
12 knowing that I was innocent. And like Mr. Alvarado say, you
13 know, I'm not a dumb person at all. You know, and I know, you
14 know, who wouldn't have took the chance of 10 years or 15
15 years over life, you know? But that just something that I had
16 to do here, you know, even knowing that I -- it was a chance
17 of me getting life in jail.

18 You know, so if I have to go to jail for life, then
19 I guess I just have to go to jail for life. That's all I have
20 to say.

21 THE COURT: Thank you, Mr. Douglas. You may have a
22 seat with Mr. Alvarado.

23 The Court always sits as the thirteenth juror
24 because after a jury of twelve hears the evidence and follows
25 the instructions of the law, I have no doubt that the

1 instructions of the law that I gave were accurate. The jury
2 determines whether the government met their burden of proof
3 beyond a reasonable doubt. They so found in this case based
4 on the evidence and the law. And then I have the right, if
5 that verdict has no justification in the law or the evidence,
6 to reverse and acquit, or to reverse and grant a new trial.

7 There would be no reason whatsoever in this case to
8 do that. The evidence of guilt was overwhelming. The tapes
9 of what was said, the video were there; and, ultimately, I
10 expect without question you'll be affirmed by the Seventh
11 Circuit Court of Appeals; the Supreme Court of the United
12 States will deny your petition for leave to appeal and that
13 your sentence will be affirmed.

14 So I hope you're successful with the President and
15 future presidents. I believe that is your only hope for
16 anything less than the law requires. And in this case, as Mr.
17 Cox said, it was continued many, many times for an alternative
18 result. And Mr. Alvarado has handled many, many difficult
19 cases. He's been a prosecutor and a defense lawyer. I never
20 was a prosecutor. I was a defense lawyer.

21 And we make reasoned decisions on what we expect
22 reasonable people will do based on the evidence. And it's
23 like if you're playing cards, blackjack, and you've got 20 and
24 you decide, "I want 21." It's not a reasonable decision. You
25 may get it. It's not reasonable. If you've got a pair of

1 two's and you think in poker a pair of two's will win over
2 whatever the next hand is is not a reasonable decision.

3 It was not a reasonable decision based on this
4 evidence for you to go to trial. The jury made a reasonable
5 decision, and I hope if you are truly innocent you'll receive
6 justice. But I believe you received justice.

7 I've been doing this for 15 years, and so far I
8 haven't been wrong. If I'm wrong in this case, you'll see me
9 again. You'll see a courtroom again. You'll have another
10 trial.

11 So I wish you good luck in that regard. I harbor
12 no animosity. My job is to sit here and administer the law,
13 which I do; but for me to say at this point that that jury
14 made any mistake whatsoever would not be reasonable for me to
15 say; and, therefore, all the decisions I've made in this case
16 I would make again.

17 If you get a chance to have your case retried, I'd
18 take another look at what's happened. I do not believe on
19 this evidence that any jury ever will find you not guilty.

20 So with that, the Court will administer the
21 sentence required by law. Pursuant to the Sentencing Reform
22 Act of 1984, it is the judgment of this Court that the
23 defendant, Edward M. Douglas, is hereby committed to the
24 custody of the Federal Bureau of Prisons for a term of life
25 imprisonment.

1 Said term shall consist of 168 months on Count 1
2 and life imprisonment on Count 2 to be served concurrently.

3 The Court finds the defendant does not have the
4 ability to pay a fine, either immediately or through
5 installment payments.

6 It's further ordered the defendant shall pay a
7 special assessment to the United States in the amount of \$200,
8 \$100 statutory fee for each of the two counts, which shall be
9 due and payable immediately.

10 Do you wish, Mr. Douglas, at this time that I
11 direct the Clerk of the Court to prepare and file a notice of
12 appeal on your behalf?

13 DEFENDANT DOUGLAS: Yes.

14 THE COURT: Okay. The Clerk is directed to prepare
15 that notice of appeal in this case on Mr. Douglas' behalf. In
16 order to assist you further in perfecting your notice of
17 appeal to the Seventh Circuit in Chicago, the transcript of
18 all of the proceedings in this case necessary for your appeal
19 will be prepared by my court reporter at no cost to you since
20 the Court has previously found you to be indigent.

21 And that way all of the necessary steps for your
22 appeal are being put into motion at this time. You're not
23 required to take any further efforts for your appeal. It has
24 been perfected, and it will go forward following today's date.

25 Ms. White, anything further?

1 PROBATION OFFICER WHITE: No, Your Honor.

2 THE COURT: Mr. Cox, anything further?

3 MR. COX: No, Your Honor.

4 THE COURT: Mr. Alvarado, anything further?

5 MR. ALVARADO: No, Your Honor.

6 THE COURT: Mr. Douglas, good luck. You have a
7 family that's supporting you, and I'm sure that you and your
8 family will maintain contact. And good luck during the term
9 of your imprisonment.

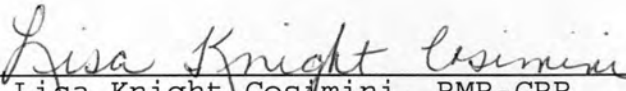
10 (Hearing concluded, 2:30 p.m.)

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13 * * * * *

14
15
16 REPORTER'S CERTIFICATE

17 I, LISA KNIGHT COSIMINI, RMR-CRR, hereby certify
18 that the foregoing is a correct transcript from the record of
19 proceedings in the above-entitled matter.

20 Dated this 31st day of March, 2004.

21
22 
23 Lisa Knight Cosimini, RMR-CRR
24 Illinois License # 084-002998
25